

FRIENDSHIP, COMMERCE, AND NAVIGATION

Treaty signed at Managua June 21, 1867

Senate advice and consent to ratification January 20, 1868

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15 Stat. 549; Treaty Series 257

TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION, BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA

The United States of America and the republic of Nicaragua desiring to maintain and to improve the good understanding and the friendly relations which now happily exist between them, to promote the commerce of their citizens, and to make some mutual arrangement with respect to a communication between the Atlantic and Pacific oceans, by the river San Juan, and either or both the lakes of Nicaragua and Managua, or by any other route through the territories of Nicaragua, have agreed for this purpose to conclude a treaty of friendship, commerce and navigation, and have accordingly named as their respective plenipotentiaries, that is to say: the President of the United States, Andrew B. Dickinson, minister resident and extraordinary to Nicaragua, and his excellency the President of the republic of Nicaragua, Señor Licenciado Don Tomas Ayon, minister of foreign relations, who, after communicating to each other their full powers, found in due and proper form, have agreed upon the following articles:

ARTICLE I

There shall be perpetual amity between the United States and their citizens on the one part, and the government of the republic of Nicaragua and its citizens of the other.

ARTICLE II

There shall be between all the territories of the United States and the territories of the republic of Nicaragua a reciprocal freedom of commerce.

¹ Pursuant to notice of termination given by Nicaragua Oct. 24, 1901.

The subjects and citizens of the two countries, respectively, shall have full liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the territories aforesaid to which other foreigners are or may be permitted to come, to enter into the same, and to remain and reside in any part thereof, respectively; also to hire and occupy houses and warehouses for the purposes of their commerce; and generally the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce, subject always to the laws and statutes of the two countries, respectively. In like manner the respective ships of war and post office packets of the two countries shall have liberty freely and securely to come to all harbors, rivers, and places to which other foreign ships of war and packets are or may be permitted to come, to enter the same, to anchor, and to remain there and refit, subject always to the laws and statutes of the two countries, respectively.

By the right of entering places, ports, and rivers, mentioned in this article, the privilege of carrying on the coasting trade is not understood; in which trade national vessels only of the country where the trade is carried on are permitted to engage.

ARTICLE III

It being the intention of the two high contracting parties to bind themselves by the two preceding articles to treat each other on the footing of the most favored nations, it is hereby agreed between them that any favor, privilege, or immunity whatever, in matters of commerce and navigation, which either contracting party has actually granted, or may grant hereafter, to the subjects or citizens of any other State, shall be extended to the subjects or citizens of the other contracting party gratuitously, if the concession in favor of that other nation shall have been gratuitous, or in return for a compensation, as nearly as possible of a proportionate value and effect, to be adjusted by mutual agreement, if the concession shall have been conditional.

ARTICLE IV

No higher or other duties shall be imposed on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, and no higher or other duties shall be imposed on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the United States, than are or shall be payable upon the like articles being the growth, produce, or manufacture of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the high contracting parties on the exportation of any articles to the territories of the other than such as are or may be payable on the exportation of the like articles to

any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any articles the growth, produce, or manufacture of the territories of the United States or the republic of Nicaragua to or from the said territories of the United States, or to or from the republic of Nicaragua, which shall not equally extend to all other nations.

ARTICLE V

No higher or other duties or payments on account of tonnage, of light or harbor dues, or pilotage, of salvage in case of either damage or shipwreck, or on account of any local charges, shall be imposed in any of the ports of Nicaragua on vessels of the United States than those payable by Nicaraguan vessels, nor in any of the ports of the United States on Nicaraguan vessels than shall be payable in the same ports on vessels of the United States.

ARTICLE VI

The same duties shall be paid on the importation into the territories of the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such importation shall be made in Nicaraguan vessels or in the vessels of the United States; and the same duties shall be paid on the importation into the territories of the United States of any article being the growth, produce, or manufacture of the republic of Nicaragua, whether such importation shall be made in Nicaraguan or United States vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to the republic of Nicaragua of any article being the growth, produce, or manufacture of the territories of the United States, whether such exportation shall be made in Nicaraguan or United States vessels; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles being the growth, produce, or manufacture of the republic of Nicaragua to the territories of the United States, whether such exportation shall be made in the vessels of the United States or of Nicaragua.

ARTICLE VII

All merchants, commanders of ships, and others, citizens of the United States, shall have full liberty in all the territories of the republic of Nicaragua to manage their own affairs themselves, as permitted by the laws, or to commit them to the management of whomsoever they please, as broker, factor, agent, or interpreter; nor shall they be obliged to employ any other persons in those capacities than those employed by Nicaraguans, nor pay them any other salary or remuneration than such as is paid in like cases by Nicaraguan citizens; and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the price of any goods, wares, or merchandise im-

ported into or exported from the republic of Nicaragua as they shall see good, observing the laws and established custom of the country.

The same privileges shall be enjoyed in the territories of the United States by the citizens of the republic of Nicaragua under the same conditions.

The citizens of the high contracting parties shall reciprocally receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in said country, respectively, for the prosecution and defence of their just rights; and they shall be at liberty to employ, in all cases, advocates, attorneys, or agents, of whatsoever description, whom they may think proper; and they shall enjoy, in this respect, the same rights and privileges therein as native citizens.

ARTICLE VIII

In whatever relates to the police of the ports, the lading and unlading of ships, the safety of merchandise, goods, and effects, the succession to personal estates, by will or otherwise, and the disposal of personal property of every sort and denomination, by sale, donation, exchange, testament, or any other manner whatsoever, as also the administration of justice, the citizens of the two high contracting parties shall reciprocally enjoy the same privileges, liberties, and rights as native citizens; and they shall not be charged in any of these respects with any higher imposts or duties than those which are or may be paid by native citizens, submitting, of course, to the local laws and regulations of each country, respectively.

The foregoing provisions shall be applicable to real estate situated within the States of the American Union, or within the republic of Nicaragua, in which foreigners shall be entitled to hold or inherit real estate. But in case real estate situated within the territories of one of the contracting parties should fall to a citizen of the other party, who, on account of his being an alien, could not be permitted to hold such property in the State in which it may be situated, there shall be accorded to the said heir, or other successor, such time as the laws of the State will permit to sell such property. He shall be at liberty, at all times, to withdraw and export the proceeds thereof without difficulty, and without paying to the government any other charges than those which would be paid by an inhabitant of the country in which the real estate may be situated.

If any citizen of the two high contracting parties shall die without a will or testament in any of the territories of the other, the minister or consul, or other diplomatic agent, of the nation to which the deceased belonged, (or the representative of such minister or consul, or other diplomatic agent, in case of absence,) shall have the right to nominate curators to take charge of the property of the deceased, so far as the laws of the country will permit, for the benefit of the lawful heirs and creditors of the deceased, giving proper notice of such nomination to the authorities of the country.

ARTICLE IX

1. The citizens of the United States residing in Nicaragua, or the citizens of Nicaragua residing in the United States, may intermarry with the natives of the country; hold and possess, by purchase, marriage, or descent, any estate, real or personal, without thereby changing their national character, subject to the laws which now exist or may be enacted in this respect.

2. The citizens of the United States residents in the republic of Nicaragua, and the citizens of Nicaragua residents in the United States, shall be exempted from all forced or compulsory military service whatsoever, by land or sea; from all contributions of war, military exactions, forced loans in time of war; but they shall be obliged, in the same manner as the citizens of each nation, to pay lawful taxes, municipal and other modes of imposts, and ordinary charges, loans, and contributions in time of peace, (as the citizens of the country are liable,) in just proportion to the property owned.

3. Nor shall the property of either, of any kind, be taken for any public object without full and just compensation to be paid in advance; and

4. The citizens of the two high contracting parties shall have the unlimited right to go to any part of the territories of the other, and in all cases enjoy the same security as the natives of the country where they reside, with the condition that they duly observe the laws and ordinances.

ARTICLE X

It shall be free for each of the two high contracting parties to appoint consuls for the protection of trade, to reside in any of the territories of the other party. But before any consul shall act as such, he shall, in the usual form, be approved and admitted by the government to which he is sent; and either of the high contracting parties may except from the residence of consuls such particular places as they judge fit to be excepted.

The diplomatic agents of Nicaragua and consuls shall enjoy in the territories of the United States whatever privileges, exemptions, and immunities are or shall be allowed to the agents of the same rank belonging to the most favored nations; and in the like manner the diplomatic agents and consuls of the United States in Nicaragua shall enjoy, according to the strictest reciprocity, whatever privileges, exemptions, and immunities are or may be granted in the republic of Nicaragua to the diplomatic agents and consuls of the most favored nations.

ARTICLE XI

For the better security of commerce between the citizens of the United States and the citizens of Nicaragua, it is agreed, that if at any time any interruption of friendly intercourse, or any rupture, should unfortunately take place between the two high contracting parties, the citizens of either, who may be within the territories of the other, shall, if residing on the coast, be allowed

six months, and if in the interior, a whole year, to wind up their accounts, and dispose of their property; and a safe-conduct shall be given to them to embark at any port they themselves may select. Even in case of rupture, all such citizens of either of the high contracting parties, who are established in any of the territories of the other in trade or other employment, shall have the privilege of remaining and of continuing such trade or employment, without any manner of interruption, in the full enjoyment of liberty and property, so long as they behave peacefully, and commit no offence against the laws; and their goods and effects, of whatever description they may be, whether in their own custody, or intrusted to individuals or to the State, shall not be liable to seizure or sequestration, nor to any other changes or demands than those which may be made upon the like effects or property belonging to the native citizens of the country in which such citizens may reside. In the same case, debts between individuals, property in public funds, and shares of companies, shall never be confiscated, nor detained, nor sequestered.

ARTICLE XII

The citizens of the United States and the citizens of the republic of Nicaragua, respectively, residing in any of the territories of the other party, shall enjoy in their houses, persons, and property, the protection of the government, and shall continue in possession of the guarantees which they now enjoy. They shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their religion, agreeably to the system of tolerance established in the territories of the high contracting parties: provided they respect the religion of the nation in which they reside, as well as the constitution, laws, and customs of the country.

Liberty shall also be granted to bury the citizens of either of the two high contracting parties, who may die in the territories aforesaid, in burial places of their own, which in the same manner may be freely established and maintained; nor shall the funerals or sepulchres of the dead be disturbed in any way or upon any account.

ARTICLE XIII

Whenever a citizen of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or war, public or private, through stress of weather, pursuit of pirates or enemies, or want of provisions or water, they shall be received and treated with humanity, and given all favor and protection for repairing their vessels, procuring provisions, and placing themselves in all respects in a condition to continue their voyage without obstacle of any kind.

ARTICLE XIV

The republic of Nicaragua hereby grants to the United States, and to their citizens and property, the right of transit between the Atlantic and Pacific oceans through the territory of that republic, on any route of communication, natural or artificial, whether by land or by water, which may now or hereafter exist or be constructed under the authority of Nicaragua, to be used and enjoyed in the same manner and upon equal terms by both republics and their respective citizens, the republic of Nicaragua, however, reserving its rights of sovereignty over the same.

ARTICLE XV

The United States hereby agree to extend their protection to all such routes of communication as aforesaid, and to guarantee the neutrality and innocent use of the same. They also agree to employ their influence with other nations to induce them to guarantee such neutrality and protection.

And the republic of Nicaragua, on its part, undertakes to establish one free port at each extremity of one of the aforesaid routes of communication between the Atlantic and Pacific oceans. At these ports no tonnage or other duties shall be imposed or levied by the government of Nicaragua on the vessels of the United States, or on any effects or merchandise belonging to citizens or subjects of the United States, or upon the vessels or effects of any other country intended, bona fide, for transit across the said routes of communication, and not for consumption within the republic of Nicaragua. The United States shall also be at liberty, on giving notice to the government or authorities of Nicaragua, to carry troops and munitions of war in their own vessels, or otherwise, to either of said free ports, and shall be entitled to their conveyance between them without obstruction by said government or authorities, and without any charges or tolls whatever for their transportation on either of said routes: *Provided*, said troops and munitions of war are not intended to be employed against Central American nations friendly to Nicaragua. And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States, or of any other country, across the said routes of communication, than are or may be imposed on the persons and property of citizens of Nicaragua.

And the republic of Nicaragua concedes the right of the Postmaster General of the United States to enter into contracts with any individuals or companies to transport the mails of the United States along the said routes of communication, or along any other routes across the isthmus, in its discretion, in closed bags, the contents of which may not be intended for distribution within the said republic, free from the imposition of all taxes or duties by the government of Nicaragua; but this liberty is not to be construed so as to permit such individuals or companies, by virtue of this right to transport the mails, to carry also passengers or freight.

ARTICLE XVI

The republic of Nicaragua agrees that, should it become necessary at any time to employ military forces for the security and protection of persons and property passing over any of the routes aforesaid, it will employ the requisite force for that purpose; but upon failure to do this from any cause whatever, the government of the United States may, with the consent, or at the request of the government of Nicaragua, or of the minister thereof at Washington, or of the competent legally appointed local authorities, civil or military, employ such force for this and for no other purpose; and when, in the opinion of the government of Nicaragua, the necessity ceases, such force shall be immediately withdrawn.

In the exceptional case, however, of unforeseen or imminent danger to the lives or property of citizens of the United States, the forces of said republic are authorized to act for their protection without such consent having been previously obtained.

But no duty or power imposed upon or conceded to the United States by the provisions of this article shall be performed or exercised except by authority and in pursuance of laws of Congress hereafter enacted. It being understood that such laws shall not affect the protection and guarantee of the neutrality of the routes of transit, nor the obligation to withdraw the troops which may be disembarked in Nicaragua directly that, in the judgment of the government of the republic, they should no longer be necessary, nor in any manner bring about new obligations on Nicaragua, nor alter her rights in virtue of the present treaty.

ARTICLE XVII

It is understood, however, that the United States, in according protection to such routes of communication, and guaranteeing their neutrality and security, always intend that the protection and guarantee are granted conditionally, and may be withdrawn if the United States should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this treaty, either by making unfair discriminations in favor of the commerce of any country or countries over the commerce of any other country or countries, or by imposing oppressive exactions or unreasonable tolls upon mails, passengers, vessels, goods, wares, merchandise, or other articles. The aforesaid protection and guarantee shall not, however, be withdrawn by the United States without first giving six months' notice to the republic of Nicaragua.

ARTICLE XVIII

And it is further agreed and understood that in any grants or contracts

which may hereafter be made or entered into by the government of Nicaragua, having reference to the interoceanic routes above referred to, or either of them, the rights and privileges granted by this treaty to the government and citizens of the United States shall be fully protected and reserved. And if any such grants or contracts now exist, of a valid character, it is further understood that the guarantee and protection of the United States, stipulated in Article XV of this treaty, shall be held inoperative and void until the holders of such grants and contracts shall recognize the concessions made in this treaty to the government and citizens of the United States with respect to such interoceanic routes, or either of them, and shall agree to observe and be governed by these concessions as fully as if they had been embraced in their original grants or contracts; after which recognition and agreement said guarantee and protection shall be in full force: provided, that nothing herein contained shall be construed either to affirm or to deny the validity of the said contracts.

ARTICLE XIX

After ten years from the completion of a railroad, or any other route of communication through the territory of Nicaragua from the Atlantic to the Pacific ocean, no company which may have constructed or be in possession of the same shall ever divide, directly or indirectly, by the issue of new stock, the payment of dividends or otherwise, more than fifteen per cent. per annum, or at that rate, to its stockholders from tolls collected thereupon; but whenever the tolls shall be found to yield a larger profit than this, they shall be reduced to the standard of fifteen per cent. per annum.

ARTICLE XX

The two high contracting parties, desiring to make this treaty as durable as possible, agree that this treaty shall remain in full force for the term of fifteen years from the day of the exchange of the ratifications; and either party shall have the right to notify the other of its intention to terminate, alter, or reform this treaty, at least twelve months before the expiration of the fifteen years; if no such notice be given, then this treaty shall continue binding beyond the said time, and until twelve months shall have elapsed from the day on which one of the parties shall notify the other of its intention to alter, reform, or abrogate this treaty.

ARTICLE XXI

The present treaty shall be ratified, and the ratifications exchanged at the city of Managua, within one year, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed the same, and affixed thereto their respective seals.

Done at the city of Managua, this twenty-first day of June, in the year of our Lord one thousand eight hundred and sixty-seven.

A. B. DICKINSON [SEAL]

TOMAS AYON [SEAL]